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Attorneys for Defendant Walmart, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

ALICIA LINTNER, Personal Representative of  
the Estate of DEBBIE LEE DALTON,  
Deceased,

Plaintiff,

v.

WALMART INC. dba  
WALMART #1784, a Foreign corporation,

Defendant.

Case No. 6:21-cv-1150

**DEFENDANT WALMART, INC.'S  
NOTICE OF REMOVAL**

**JURY TRIAL REQUESTED**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. § 1441, § 1446 and § 1332(a), Defendant Walmart, Inc.'s (hereinafter "Defendant") removes this action from the Circuit Court of the State of Oregon for the County of Multnomah to the United States District Court of Oregon, Eugene Division. The grounds for removal of this action are:

### RELEVANT FACTS

On July 1, 2021, Plaintiff filed a Complaint in the Circuit Court of Multnomah County, Oregon. Copies of the Summons and Complaint are attached hereto as Exhibits A and B, respectively. *See* Declaration of Jessica M. Lancaster (hereinafter “Lancaster Dec.”), ¶2. Plaintiff alleges that Defendant supplied a wheelchair for shopping at its store in Salem, Marion County, Oregon, and that the wheelchair collapsed when decedent sat on the chair, causing injuries. Lancaster Dec., ¶2, Ex. B (“Complaint”) at pp. 2–3. On July 7, 2021, Plaintiff served Walmart, Inc. with a Summons and Complaint captioned *Alicia Lintner, Personal Representative of the Estate of Debbie Lee Dalton, Deceased v. Walmart Inc. dba Walmart #1784*, Case No. 21CV26884, filed in the Circuit Court for the State of Oregon for the County of Multnomah, State of Oregon. *See* Lancaster Dec., ¶3, Ex. C. These documents, taken together, constitute all process, pleadings, and orders served on Walmart, Inc. in that action up to the present date. Lancaster Dec., ¶4.

### GROUND FOR REMOVAL

Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court to the United States District Court if the district court has diversity jurisdiction over the action. This action is one over which the district court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1). The grounds for removal of this action are:

1. Plaintiff’s principal claims for relief against the defendants exceed \$75,000. Plaintiff seeks damages of \$1,097,350.18. Complaint ¶¶23, 24.
2. Plaintiff and Defendant are residents of different states. Plaintiff is a resident of Marion County, Oregon. *See* Complaint ¶1. Walmart, Inc. is a Delaware corporation registered

with the Oregon Corporation Division as having its principal place of business headquartered in Bentonville, Benton County, Arkansas. Lancaster Dec., ¶6. *See* Walmart, Inc.'s Corporate Disclosure Statement, filed concurrently herewith. Therefore, the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).

1. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b), as less than 30 days have elapsed since copies of the Summons and Complaint were served on Walmart, Inc. A copy of the Service of Process/Declaration of Service is attached to the Lancaster Dec. as Ex. C.

2. No further proceedings have occurred in the Circuit Court of the State of Oregon for the County of Multnomah as of the date of this removal other than outlined herein.

3. Counsel for Walmart, Inc. will file a copy of this Notice of Removal with the Clerk of the Circuit Court of the State of Oregon for the County of Multnomah and will give notice of the same to Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Walmart, Inc. prays that this action be removed from the Circuit Court for the State of Oregon for the County of Multnomah and placed on the docket of the United States District Court for the District of Oregon in the Eugene Division.

DATED this 5<sup>th</sup> day of August, 2021.

**CHOCK BARHOUM LLP**



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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

ALICIA LINTNER, Personal Representative of  
the Estate of DEBBIE LEE DALTON,  
Deceased,

Case No. 21-cv-1150

**CERTIFICATE OF SERVICE**

Plaintiff,

v.

WALMART INC. dba  
WALMART #1784, a Foreign corporation,

Defendant.

I hereby certify that on the 5<sup>th</sup> day of August, 2021, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such

filing to all registered individuals. Additionally, I hereby certify that a true copy of the foregoing

**DEFENDANT'S NOTICE OF REMOVAL** was served as stated below on:

R. Brendan Dummigan  
Pickett Dummigan McCall LLP  
210 SW Morrison Street, 4th Floor  
Portland, OR 97204  
*Attorneys for Plaintiff*

- ☐ By hand delivery
- ☒ By first-class mail\*
- ☐ By overnight mail
- ☐ By facsimile transmission:  
Fax #:  
Matter.CustomField.Pltf1Attorney.PrimaryFaxNumber >>
- ☒ By e-mail:  
brendan@pdm.legal
- ☒ By U.S. District Court CM/ECF e-filing  
service to registered parties

\*With first-class postage prepaid and deposited in Portland, Oregon.

DATED this 5<sup>th</sup> day of August, 2021.

**CHOCK BARHOUM LLP**



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Attorneys for Defendant Walmart, Inc.